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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/901,237	07/09/2001	Paul D. Daly	60426-282; 2000P07905US01	7497

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY LAW DEPARTMENT
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EXAMINER	
CHAU, COREY P	

ART UNIT	PAPER NUMBER
2644	8

DATE MAILED: 08/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/901,237	DALY, PAUL D.	
	Examiner	Art Unit	
	Corey P Chau	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-17* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-17* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2,4,6*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No 6688422 to Fuesser et al (hereafter as Fuesser).

3. Regarding Claim 1, Fuesser discloses a method and apparatus for actively influencing the intake noise of an internal combustion engine (i.e. an air induction system) comprising: an air induction body (Fig. 1); a speaker (14); a control unit (17) in communication with said speaker (Figs. 1 and 2), having at least two modes of noise attenuation signal generation (column 4, lines 15-46); an engine sensor (18)communicating engine data to said control unit; and said control unit selecting one

of said at least two modes of noise attenuation signal generation based on said engine data (column 4, lines 15-46; column 5, lines 41-57).

4. Regarding Claim 2, Fuesser discloses said engine data comprises engine load data (12,19) and engine speed data (18)(Fig. 1; column 5, lines 41-57; claims 1 and 6) .

5. Regarding Claim 3, Fuesser discloses including a memory unit storing driving mode information that at least assists said control unit in the selection of one of said at least two modes of noise attenuation signal generation (column 4, lines 15-46; column 5, lines 13-20 and lines 41-50).

6. Regarding Claim 4, Fuesser discloses said driving mode information comprises data relating at least one mode of noise attenuation to said engine speed data (Fig. 1; column 4, lines 15-46; column 5, lines 41-57) .

7. Regarding Claim 5, . Fuesser discloses said driving mode information comprises data relating at least one mode of noise attenuation to said engine load data (column 5, lines 41-57; claims 1 and 6).

8. Regarding Claim 6, Fuesser discloses said driving mode information comprises data relating at least one mode of noise attenuation to said engine load data and said engine speed data (Fig. 1; column 4, lines 15-46; column 5, lines 41-57; claims 1 and 6).

9. Regarding Claim 7, Fuesser discloses one of said at least two driving modes comprises a sport-driving mode and one of said at least two driving modes comprises a normal driving mode (column 4, lines 15-46).

10. Regarding Claim , Fuesser disclose a method and apparatus for actively influencing the intake noise of an internal combustion engine (i.e. an air induction system) comprising: an air induction body (Fig. 1); a speaker (14) disposed adjacent said air induction body (column 3, lines 18-30); a control unit (17) in communication with said speaker (Figs. 1 and 2), having at least two modes of noise attenuation signal generation (column 4, lines 15-46); a memory unit storing driving mode information that assists said control unit in the selection of one of said at least two modes of noise attenuation signal generation (column 4, lines 15-46; column 5, lines 13-20 and lines 41-50); an engine speed sensor (18) communicating engine speed data to said control unit; and an engine load sensor (12,19) communicating engine load data to said control unit wherein said control unit selects one of said at least two modes of noise attenuation signal generation based on a comparison of said engine speed data and said engine load data and data stored in said memory unit (column 4, lines 15-46; column 5, lines 41-57; claims 1 and 6).

11. Claim 9 is essentially similar to Claim 4 and is rejected to reasons stated above apropos to Claim 4.

12. Claim 10 is essentially similar to Claim 5 and is rejected to reasons stated above apropos to Claim 5.

13. Claim 11 is essentially similar to Claim 6 and is rejected to reasons stated above apropos to Claim 6.

14. Claim 12 is essentially similar to Claim 7 and is rejected to reasons stated above apropos to Claim 7.

15. Regarding Claim 13, Fuesser discloses a method of noise attenuation comprising: determining engine speed data (18); determining engine load data (12,19); selecting one of at least two modes of noise attenuation signal generation based on the determined engine speed data and engine load data; and generating a noise attenuation signal from the selected mode Fig. 1; column 4, lines 15-46; column 5, lines 41-57; claims 1 and 6).

16. Claims 14, 15, 16 are essentially similar to Claim 7 and are rejected to reasons stated above apropos to Claim 7.

17. Regarding Claim 17, Fuesser discloses the selecting one of at least two modes of noise attenuation signal generation comprises comparing the determined engine speed data and engine load data with engine speed data and engine load data related to each of the at least two modes of noise attenuation signal generation (Fig. 1; column 4, lines 15-46; column 5, lines 41-57; claims 1 and 6).

Conclusion

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey P Chau whose telephone number is (703)305-0683. The examiner can normally be reached on Monday - Friday 9:00 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Forester W Isen can be reached on (703)305-4386. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 23, 2004

FORESTER W. ISEN
SUPERVISORY PATENT EXAMINER